

STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 6585

Joint Petition of Z-Tel Communications, Inc. and)
Touch 1 Communications, Inc. for Approval of a)
Transfer of Control)

Order entered: 12/19/2001

I. INTRODUCTION

This case involves a petition filed on October 16, 2001, by Z-Tel Communications, Inc. ("Z-Tel") and Touch 1 Communications, Inc. ("Touch 1") (jointly the "Petitioners"), seeking Vermont Public Service Board ("Board") approval under 30 V.S.A. § 107, for approval of a transfer of control resulting from a stock purchase agreement.

On October 26, 2001, the Vermont Department of Public Service ("Department") submitted a letter to the Board indicating that the Department had no objection to the transfer of control. The Department noted that the transaction would not involve a change in the management or services of the Petitioners. Further, the Department also had no objection to the issuance of an order without hearing or further investigation, as provided under 30 V.S.A. § 107.

II. FINDINGS OF FACT

Based upon the petition and accompanying documents, the Board makes the following findings of fact.

1. Z-Tel received a Certificate of Public Good (CPG No. 472-CR) to provide telecommunications services in Vermont on May 11, 1999. Z-Tel is a direct, wholly-owned subsidiary of Z-Tel Technologies, Inc. Petition at 1 and Exhibit A.
2. Touch 1 received a Certificate of Public Good (CPG No. 243) to provide telecommunications services in Vermont on June 3, 1996. Touch 1 is also a direct, wholly-owned subsidiary of Z-Tel Technologies, Inc. Petition at 1 and Exhibit A.
3. Pursuant to a Stock and Warrant Purchase Agreement dated July 2, 2001 (the "Agreement"), Z-Tel Technologies, Inc. has issued additional stock to several existing stockholders which would result in certain stockholders to exercise more than 10% of the voting power of Z-Tel

Technologies, Inc. Following the transaction, the Petitioners will continue to operate in all respects as they currently operate, pursuant to existing operating authority. Neither the name of nor the terms and conditions of service offered by the Petitioners will be affected by the transaction. Petition at 2-3.

3. Completion of the proposed transaction will promote the public interest in that it will promote competition among telecommunications providers by providing the Petitioners with access to greater financial resources, thus strengthening its competitive position and enabling it to pursue marketing and business plans more effectively. Petition at 4.

III. CONCLUSIONS OF LAW AND DISCUSSION

The proposed transaction requires Board approval under 30 V.S.A. § 107, which applies to a direct or indirect acquisition of a controlling interest in a Vermont utility.¹ Under Section 107, a "controlling interest" is defined as 10% or more of the outstanding voting securities of a company. Section 107 requires a finding that the transfer of control will promote the public good. This standard is met in this case. The proposed transaction will promote the public good, because the indirect transfer of control of the Petitioners will allow them access to greater financial resources, thus allowing them to operate in a more flexible manner. In the competitive arena of telecommunications, the overall effect of this transfer may promote more customer choice in terms of services, with stronger competitors in the Vermont telecommunications market. It should also be noted that the transfer of control will not have an adverse impact on Vermont consumers as the Petitioners will continue to operate according to their present respective authority.

For all of the above reasons, the proposed indirect transfer of control of Z-Tel and Touch 1 pursuant to the Agreement, should be approved.

1. Approval under 30 V.S.A. §§ 231 and 311 is not required because the current holders of the Certificates of Public Good will continue to be the entities providing telecommunications service in Vermont.

IV. ORDER

IT IS HEREBY ORDERED, ADJUDGED AND DECREED by the Public Service Board of the State of Vermont that:

1. The indirect transfer of control of Z-Tel Communications, Inc. and Touch 1 Communications, Inc., is approved.
2. Petitioner shall file a letter notifying the Board of the completion of the transaction within one week of such completion.

DATED at Montpelier, Vermont, this 19th day of December, 2001.

<u>s/Michael H. Dworkin</u>)	
)	PUBLIC SERVICE
)	
<u>s/David C. Coen</u>)	BOARD
)	
)	OF VERMONT
<u>s/John D. Burke</u>)	

OFFICE OF THE CLERK

Filed: December 19, 2001

Attest: s/Susan M. Hudson

Clerk of the Board

NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: Clerk@psb.state.vt.us).

Appeal of this decision to the Supreme Court of Vermont must be filed with the Clerk of the Board within thirty days. Appeal will not stay the effect of this Order, absent further Order by this Board or appropriate action by the Supreme Court of Vermont. Motions for reconsideration or stay, if any, must be filed with the Clerk of the Board within ten days of the date of this decision and order.